

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' APPENDIX IN SUPPORT OF THEIR
NOTICE OF COMPLIANCE**

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App001–App-003	Declaration of Andrew E. Carmichael
App004–App-007	Declaration of Captain Gareth J. Healy

Dated: June 25, 2024

Respectfully submitted,

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Principal Deputy Assistant Attorney General

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Director, Federal Programs Branch

LAUREN A. WETZLER
Deputy Director
Federal Programs Branch

/s/ Andrew E. Carmichael
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DECLARATION OF ANDREW E. CARMICHAEL

I, Andrew E. Carmichael, hereby state and declare as follows:

1. I am a Senior Trial Counsel at the United States Department of Justice and counsel of record for Defendants in this action. I submit this declaration in support of Defendants' Notice of Compliance with the Court's Order of Preliminary Approval of the Settlement Agreement. ECF No. 280.
2. On or before June 17, 2024, the Navy sent email notices containing the parties' Settlement Agreement and the Court approved and agreed-upon notice, *see* ECF No. 281, Ex. 1, Ex. 1-C, to all current service member Class Members as defined in the parties' Settlement Agreement and the Court in its Order of Preliminary Approval of the Settlement Agreement, via the service members' official email addresses. In total, emails containing these documents were sent to 2,494 Class Member email addresses. Declaration of Captain Gareth J. Healy ("Healy Decl.") ¶¶ 3-6.
3. On or before June 17, 2024, the Navy, utilizing the support of the Defense Logistics Agency, mailed the parties' Settlement Agreement and the Court approved and agreed-upon notice, *see* ECF No. 281, Ex. 1, Ex. 1-C, to all Class Members as defined in the parties' Settlement Agreement and the Court in its Order of Preliminary Approval of the Settlement Agreement, who are no longer in the U.S. Navy, to the Class Members' last known home address according to U.S. Navy records. In total, these documents were mailed to 1,868 Class Member physical addresses. Healy Decl. ¶¶ 3-6.
4. Accordingly, I attest that the Notice of Proposed Class Action Settlement and Hearing to Approve Proposed Settlement, together with a copy of the Settlement Agreement and appropriate Attachments, was sent by Defendants to each Class Member by the agreed means on or before June 17, 2024.¹

¹ Because some class members received multiple e-mail notifications and/or a physical address notification, the total number of notifications (4,362) exceeded the class size (4,339). Healy Decl. ¶ 7.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on June 25, 2024

/s/ Andrew E. Carmichael

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

NAVY SEALs 1-3, *et al.*,

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DECLARATION OF GARETH J. HEALY

I, Gareth J. Healy, U.S. Navy, hereby state and declare as follows:

I. I am a Captain in the United States Navy, currently serving as Deputy Director for Military Personnel Plans and Policy (OPNAV N13B), located in Arlington, Virginia. As part of my duties as Deputy Director for Military Personnel Plans and Policy (OPNAV N13B), I make this declaration in my official capacity, based upon my personal knowledge and upon information that has been provided to me in the course of my official duties.

2. I have been assigned to my current position since September 12, 2022. Prior to my current assignment, I served as Commander, Task Force 75 with operational command of Navy Expeditionary Combat Forces under U.S. Seventh Fleet. As part of my duties currently, I am responsible for the development of policies and plans for the accession, retention, and promotion of active and reserve military personnel while translating essential mission capabilities into manpower, training and education requirements to enable Navy's warfighting readiness. The scope of these duties span officer and enlisted community management, the analysis of manpower requirements at all sea and shore based commands, and the resourcing requirements to shape the Navy's Total Force. Additionally, I oversee the office that processes all Religious Accommodation requests (to include COVID-19 vaccination waiver requests). This

office was responsible for compiling the list of class members party to this litigation and the process of distributing the class notice in accordance with the Court's Order of Preliminary Approval of the Settlement Agreement. As such, I am aware of the following information regarding distribution of the class notice:

3. The cognizant office, N131 Religious Accommodations (N131RA), reviewed previously-submitted COVID-19 vaccine religious accommodation requests to develop a list of class members. The class list included 4,339 class members.

4. N131RA identified last known physical addresses for separated members from the forwarding addresses entered on electronic versions of each member's DD-214, as well as class member physical addresses entered into the Navy Standard Integrated Personnel System (NSIPS). E-mail addresses for members still on active duty or in the Selected Reserve (SELRES) were identified via the Defense Manpower Data Center (DMDC), as well as NSIPS. A small number of class members had no official e-mail address or mailing address following the use of these data analytic tools. For these class members, N131RA team members conducted individual searches for the members via the Navy's Global Address List, various DoD digital search systems, as well as reaching directly out to the member based on contact information provided by the member on their Religious Accommodation request for the sole purpose of obtaining an official email or physical address.

5. For separated class members, 1,868 packages, each containing a class notice and settlement agreement, were printed and mailed via a contract with the Defense Logistics Agency (DLA) print centers located in Coronado, California and Port Hueneme, California. The DLA completed the mailings in batches, placing them into the mail from July 12 to June 17, 2024.

6. For active duty and SELRES class members, the N131RA team sent 2,494 e-mail messages to official e-mail addresses. Some class members had multiple official e-mail addresses

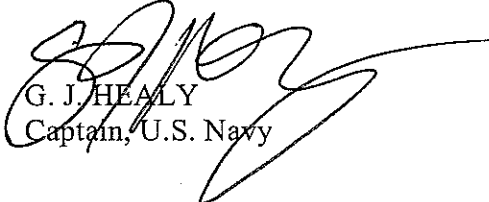
(e.g., john.smith@navy.mil, john.smith@health.mil, john.smith@socom.mil) due to the existence of various Department of Defense information domains. Where multiple official e-mail addresses were identified, the more specific official e-mail address associated with that class member was used for the recipient (e.g., john.smith@socom.mil instead of john.smith@navy.mil). In some cases multiple email addresses or an email address and a physical address were utilized. Additionally, there were 42 Midshipman contacted via education-related or other email addresses (e.g., john.smith@usna.edu), and/or by physical address when provided.

7. Because some class members received multiple e-mail notifications and/or a physical address notification, the total number of notifications (4,362) exceeded the class size (4,339).

8. Two members of the class could not be reached via official e-mail address or physical address due to lack of information in Navy databases. One member, who is separated, was reached via LinkedIn. The member refused to provide a mailing address, but agreed to receive the class notice and settlement agreement at his civilian work e-mail address. The second member, an active duty Sailor in a student program, was unresponsive to efforts to reach her electronically but her current command was reached. As she was not yet enrolled in the Navy's official email system, her command forwarded the documents to her directly. Her command confirmed delivery.

9. On June 17, 2024, N131RA confirmed that all class members had either been mailed the class notice and settlement agreement or had those documents sent to their official e-mail, pursuant to the terms of the settlement agreement and the Court's Order of Preliminary Approval of the Settlement Agreement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of June, 2024.


G. J. HEALY
Captain, U.S. Navy